

#13/Election w/ ext. of time
10/17/01 2747
a.s. 2644

PATENT
DOCKET NO.: 1538/15

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : S. Schwartz
SERIAL NO. : 09/072,412
FILED : May 4, 1998
FOR : MICROPHONE-TAILORED EQUALIZING SYSTEM
GROUP ART UNIT : 2747
EXAMINER : B. Pendleton

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Dated: October 3, 2001

Signature Shawn W. O'Dowd
Shawn W. O'Dowd (Reg. No. 34,687)
KENYON & KENYON

**RESPONSE TO RESTRICTION REQUIREMENT
AND REQUEST FOR EXTENSION OF TIME**

SIR:

This communication is in response to the communication dated July 3, 2001 requiring restriction of the invention to one of the following: Group I, claims 1-5 and 13-15; Group II, claims 6-12; Group III, claims 16-24; and Group IV, claims 25 and 27.

Applicants respectfully request a two-month extension of time in which to respond to the office action dated July 3, 2001, for which a one-month response period expiring on August 3, 2001, was set. The extended period expires on October 3, 2001.

Please charge Kenyon & Kenyon Deposit Account No. 11-0600 in the amount of \$200.00

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(small entity) as the fee for a two-month extension of time. If any additional fee is required, please charge Deposit Account 11-0600. A copy of this request is enclosed for that purpose.

Applicants hereby elect, with traverse, the claims of Group I (claims 1-5). If the Examiner maintains his restriction requirement, claims 6-25 and 27 are withdrawn from consideration, and Applicant reserves the right to file a divisional application on the claims of these Groups.


First of all, the MPEP requires that there be some showing of burden to restrict an application. The present case has been fully examined through final rejection (this is a CPA application). Thus, though there are several independent claims, there was no burden in examining these claims earlier in the process. There is no showing as to why this would be seriously burdensome at this time (see MPEP sec. 803).

Second, the claims of groups II and III cannot be said to be necessarily distinct. According to the Office Action, each group is part of the same class. Moreover, each of the inventions of the group include the basic premise of comparison between reference sounds and sounds emanating from one or more instruments. Reconsideration and withdrawal of the restriction requirement is, therefore, respectfully requested.

The Examiner is invited to contact the undersigned at (408) 975-7500 to discuss any matter concerning this application. The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to Deposit Account No. 11-0600.

Respectfully submitted,
KENYON & KENYON

Dated: 10/3/01

By: 
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